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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***********CRR(F)-931-2025 (O&M)
Date of Decision: 07.07.2025**

Sunny Kumar

..... Petitioner

Versus

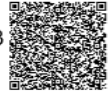
Rajveer Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Vijay Lath, Advocate
for the petitioner.**********JASGURPREET SINGH PURI, J. (ORAL)**

1. The present revision petition has been filed by the petitioner/husband for assailing the order dated 18.03.2025 passed by learned Principal Judge, Family Court, Fatehgarh Sahib Camp at Khamano by which an application filed by the respondents i.e. the wife and minor daughter for grant of interim maintenance was allowed and the total interim maintenance to the tune of ₹12,000/- per month i.e. ₹8,000/- per month to respondent No.1/wife and ₹4,000/- per month to respondent No.2/minor daughter of the age of about 4-5 years has been granted.

2. Learned counsel for the petitioner has argued that the aforesaid interim maintenance, which has been granted to respondent No.1/wife and respondent No.2/minor daughter (who is of the age of about 4-5 years) is on the excessive side as the petitioner/husband is working as a Peon in the Municipal Corporation and earlier his income was ₹27,000/- per month and as of now his income is ₹30,000/- per month and from the aforesaid amount he cannot pay a total of ₹12,000/- per month i.e. ₹8,000/- per month to respondent No.1/wife and ₹4,000/- per month to respondent No.2/minor

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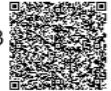
daughter as he has other liabilities as well. In this regard, he submitted that the petitioner was appointed in the Municipal Corporation, Patiala on compassionate basis and his other liabilities include liability towards his mother, installment of loan availed for marriage of one of his sisters, responsibility of another unmarried sister and a brother, customary expenses towards two married sisters, his own expenses and in this way his total expenditure for a month comes out to be ₹18,500/-. He further submitted that the salary which he is receiving is ₹30,253/- per month after deduction and after adjusting the aforesaid expenditure amount per month, his total remaining salary is about ₹11,753/- and submitted that in the present petition at Para No.2(v), the petitioner has shown the same in a tabulated form.

3. Learned counsel for the petitioner further submitted that the petitioner is not disputing that he is legally married to respondent No.1 and he is also not disputing that respondent No.2/minor daughter was born out of the said wedlock and she is in the care and custody of respondent No.1/wife and his liability to maintain his wife and children subsists but he is disputing the quantum of interim maintenance which has been granted. Therefore, the impugned order be set aside to the aforesaid extent.

4. With regard to the source of income of respondent No.1/wife, learned counsel for the petitioner submitted that he is not disputing that respondent No.1/wife is having no source of income and is living separately from the petitioner, but at the same time, he has obligations towards his own family as well and he is not able to pay the interim maintenance to the tune of ₹12,000/- per month for both the respondents.

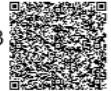
5. I have heard the learned counsel for the petitioner.

6. It is a case where the relationship of marriage between the

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petitioner and respondent No.1 is not in dispute and it is also not in dispute that a girl child was born out of the said wedlock who is now of the age of about 4-5 years and is in care and custody of respondent No.1/wife. It is also not in dispute that respondent No.1/wife along with her minor daughter is living separately from the petitioner. The fact that the petitioner is earning a monthly income of ₹30,253/- is also not in dispute even as per learned counsel for the petitioner. Respondent No.1/wife has no source of income. Learned counsel for the petitioner has challenged the impugned order by which only interim maintenance has been granted to the respondents.

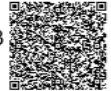
7. It is an argument of learned counsel for the petitioner that the petitioner although is working in the Municipal Corporation, Patiala and is having an income of ₹30,253/- per month, but his source of employment was on compassionate basis because his father had died and he has other liabilities as well which have been so described as aforesaid in the petition itself and because of that reason, he cannot pay and maintain his wife and minor daughter to the extent to which the interim maintenance has been granted. So far as respondent No.1/wife is concerned, she is not educationally qualified. This Court would therefore consider the aforesaid first argument raised by learned counsel for the petitioner as to whether any distinction can be drawn between the source of employment of the petitioner. The income by way of a salary of the petitioner has not been disputed in the present case. The petitioner is also having some other liabilities pertaining to his family i.e. mother, brother and sisters but at the same time his liability is also pertaining to his wife and his minor daughter who are living separately from him and the minor daughter is in the care and custody of respondent No.1/wife. The liability to maintain the wife and

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children arises out of Statutory Provision of Law i.e. Section 144 of BNSS (Erstwhile Section 125 Cr.P.C.). In this way, the right flows and emanates from a Statutory Provision of Law. Not only there is an enforceability under the law but otherwise also the obligation is in terms of moral, social and economic liability.

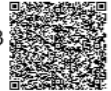
8. This Court is of the considered view that the distinction which has been so raised by learned counsel for the petitioner pertaining to the source of employment that it was on compassionate basis is insignificant and irrelevant for the purpose of invoking Section 144 of BNSS (Erstwhile Section 125 Cr.P.C.) or ascertaining the quantum. Whether he was appointed on compassionate basis or otherwise will *per se* have no bearing on the rights which vests and flows out of Section 144 of BNSS (Erstwhile Section 125 Cr.P.C.). However, the other liabilities of the husband towards his own parents and brother, sisters considering the death of his father is certainly one of the relevant factors for the purpose of considering and adjudicating the quantum of maintenance but the right under Section 144 of BNSS (Erstwhile Section 125 Cr.P.C.) cannot be nullified on the aforesaid reason and therefore, *per se* distinction between a compassionate appointment and an appointment otherwise is an artificial distinction and such distinctions cannot be made. The law with regard to maintenance of wife and children when husband is not able to earn so much to maintain his wife and child came up for consideration before Hon'ble Supreme Court in "**Anju Garg Vs. Deepak Kumar Garg**", **2022 SCC Online SC 1314**. The relevant portion of the aforesaid judgment is reproduced as under:-

"10. This Court had made the above observations as the Court felt that the Family Court in the said case had



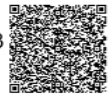
conducted the proceedings without being alive to the objects and reasons, and the spirit of the provisions under Section 125 of the Code. Such an impression has also been gathered by this Court in the case on hand. The Family Court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuj vs. Sita Bai (2008) 2 SCC 316, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy. As settled by this Court, Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children. It also falls within the Constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution of India.”

9. This Court also had on multiple occasions dealt with the aforesaid proposition of law. Recently in **CRR(F)-789-2025** titled as “**Ravi Kumar Swami Vs. Pooja Swami and others**”, decided on 26.05.2025, this Court had held that mere fact that the husband is having a less earning capacity notwithstanding that he is an able bodied man is not a ground for non-suiting or refusal of maintenance to the wife and children. It is for the husband to manage his finances and to strike a balance between his parents, sisters, brothers on the one hand and his wife and minor children on the other hand. While striking a balance which is otherwise also not only a statutory but also a moral duty of the husband to distribute and to spend his

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source of income and the cost of living and the other facts and circumstances are also to be seen. In the present case, the respondent/wife is having no source of income, living separately from the petitioner/husband and having the care and custody of a minor daughter who is of the age about 4-5 years and the total maintenance granted as an interim maintenance is only ₹8,000/- per month for respondent No.1/wife and ₹4,000/- per month for the minor daughter. Therefore, by no stretch of imagination it can be said that the quantum of interim maintenance is on the higher side considering the cost of living, other expenses especially of daughter. In other words, the husband cannot wash away and evade his liability by raising such an argument that he has other liabilities as well including some installments of loan. In today's era where the cost of living is so high, the wife and small daughter of the age of 4-5 years cannot be left alone at the mercy of the others. That was the principle and rationale behind Section 144 of BNSS (Erstwhile Section 125 Cr.P.C.). This Court is further of the considered view that refusal of non-grant of even the aforesaid quantum of maintenance would rather lead to miscarriage of justice.

10. The present is a revision petition and the scope of the same is very limited. Interference can be made when there is a patent illegality or infirmity or perversity in the impugned order. The present impugned order is otherwise also an interim order by which only interim maintenance has been granted. No illegality, infirmity or perversity is found in the impugned order. Rather this Court is of the further view that filing of the present petition by the husband against the wife and the minor daughter of the age of about 4-5 years against an interim order for the aforesaid amount of ₹8,000/- + ₹4,000/- = ₹12,000/- amounts to perpetuating litigation and this Court is also

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of the view that the present petition is a vexatious petition.

11. In view of the aforesaid facts and circumstances, the present petition is hereby dismissed with ₹10,000/- (Rupees Ten Thousand Only) as costs. The petitioner is hereby directed to deposit the aforesaid costs before learned Principal Judge, Family Court, Fatehgarh Sahib Camp at Khamano within a period of 3 months from today. On his deposit of the same, learned Judge, Family Court, Fatehgarh Sahib Camp at Khamano shall transmit the same to the minor daughter, namely, Yuvika in the form of any Government scheme including an FDR or any *Sukanya Samriddhi Yojana* or any other scheme of the Government which as per the wisdom of learned Judge, Family Court will be best suited for the minor daughter.

12. In case the aforesaid amount is not deposited by the petitioner within the aforesaid period, then learned Family Court, Fatehgarh Sahib Camp at Khamano is hereby directed to ensure that the aforesaid amount is deposited by the petitioner and to recover the same from him in accordance with law including recovery by way of arrears of land revenue and also recovery from his salary.

13. A copy of this order be sent to learned Family Court, Fatehgarh Sahib Camp at Khamano.

14. Since the present petition has been dismissed, all the pending applications also stand disposed of.

07.07.2025*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |